

Francis O. Scarpulla (41059)
Patrick B. Clayton (240191)
LAW OFFICES OF FRANCIS O. SCARPULLA
456 Montgomery Street, 17th Floor
San Francisco, CA 94104
Telephone: (415) 788-7210
Facsimile: (415) 788-0706
Email: fos@scarpullalaw.com
pbc@scarpullalaw.com

Counsel for Indirect-Purchaser Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION**

Master File No. 3:07-cv-5944-JST

MDL No. 1917

This Document Relates to:
All Indirect-Purchaser Actions

**DECLARATION OF FRANCIS O.
SCARPULLA IN SUPPORT OF
ADMINISTRATIVE MOTION TO REQUIRE
LEAD COUNSEL TO DISCLOSE THE
NUMBER OF INDIRECT-PURCHASER
CLAIMANTS**

Judge: The Honorable Jon S. Tigar

1 I, Francis O. Scarpulla, declare:

2 1. I am an attorney licensed to practice in the State of California and admitted to the
3 Bar of the Supreme Court of the State of California and all inferior courts of that state. I am also
4 admitted to the Bar of the Supreme Court of the United States, as well as admitted to practice
5 before several United States Courts of Appeal and United States District Courts, including the
6 United States Court of Appeals for the Ninth Circuit and the United States District Court for the
7 Northern District of California.

8 2. I make this declaration based on personal knowledge.

9 3. For many months, I have requested that Lead Counsel, Trump Alioto Trump &
10 Prescott (“TATP”), provide me, and, by implication, all other counsel in this class action, the
11 number of indirect-purchaser class members who filed claims, which claims were approved for
12 payment by the Settlement Claims Administrator. Specifically, I requested that information for (1)
13 natural-person consumers, (2) business-entity consumers filing directly and (3) business-entity
14 consumers filing through so-called Third-Party Aggregators. Although TATP informed the Court
15 of the total number of CRT claims filed, to date, TATP has refused to provide detailed breakdown
16 by claimant category requested. Attached hereto as Exhibit 1 is the most recent communication,
17 dated December 16, 2106, requesting this claims information.

18 4. The period set by this Court for submitting claims ended on November 16, 2016.
19 See Doc. No. 5038.

20 5. During the almost 50 years that I have been in practice, I have participated actively
21 in over 100 antitrust cases, many of which wherein I was in a leadership role. Therefore, I have
22 personal knowledge of how a claims administration process works. Based on my experience, the
23 claims administrator should provide class counsel with detailed claims processing reports on a
24 periodic basis – usually weekly, although I requested daily reports in many cases. Therefore,
25 TATP should have all of the information I have requested but which it will not disclose.

26 5. If this detailed information about the claims process has been disclosed to the
27 Court, I do not know about it.

28

1 6. The information I request that either TATP or the Settlement Claims Administrator
2 to file with the Court is the following:

3 a. The number of natural-person claimants filing claim
4 forms to participate in the net settlement fund received by the Claims
5 Settlement Administrator, and the number of such claims that were
6 approved for payment, as well as the number of CRT units included
7 in such approved claims;

8 b. The number of business-entity claimants filing claim
9 forms to participate in the net settlement fund received by the Claims
10 Settlement Administrator, and the number of such claims that were
11 approved for payment, as well as the number of CRT units included
12 in such approved claims; and

13 c. The number of business-entity claimants filing claims
14 to participate in the net settlement fund through Third-Party Claims
15 Aggregators received by the Settlement Claims Administrator, and
16 the number of such claims that were approved for payment, as well
17 as the number of CRT units included in such approved claims.

18 7. The undersigned is unable to reach a stipulation with Lead Counsel regarding this
19 matter in light of Lead Counsel's refusal to provide the requested information.

20 I declare under penalty of perjury that the above stated facts are true and correct.

21 Executed this 28th day of December 2016, at San Francisco, California.

22
23 /s/ Francis O. Scarpulla
24 Francis O. Scarpulla
25
26
27
28

EXHIBIT 1

Francis Scarpulla

From: Francis Scarpulla
Sent: Friday, December 16, 2016 3:01 PM
To: Mario Alioto
Subject: Re: CRT

I got no information. Please send what I requested.

> On Dec 16, 2016, at 2:37 PM, Mario Alioto <MAlioto@TATP.com> wrote:

>

> We have already provided you with all of the necessary information.

> If you want additional information, can you please let us know what is

> the basis for your request. Thanks.

>

> -----Original Message-----

> From: Francis Scarpulla [mailto:fos@scarpullalaw.com]

> Sent: Thursday, December 15, 2016 11:16 AM

> To: Mario Alioto <MAlioto@TATP.com>

> Cc: Patrick Clayton <pbcc@scarpullalaw.com>

> Subject: RE: CRT

>

> Are you going to send me the requested information?

>

> -----Original Message-----

> From: Francis Scarpulla

> Sent: Tuesday, December 13, 2016 2:09 PM

> To: 'Mario Alioto' <MAlioto@TATP.com>

> Cc: Patrick Clayton <pbcc@scarpullalaw.com>

> Subject: RE: CRT

>

> If you sent it to me, I did not get it. What I want is the number of

> natural person consumers who filed claims that you approved and how

> many were filed by corporate entities and third party aggregators.

>

> -----Original Message-----

> From: Mario Alioto [mailto:MAlioto@TATP.com]

> Sent: Tuesday, December 13, 2016 12:47 PM

> To: Francis Scarpulla <fos@scarpullalaw.com>

> Cc: Patrick Clayton <pbcc@scarpullalaw.com>

> Subject: RE: CRT

>

>

> I am quite sure we have provided you all of the information to which

> you are entitled, but I will check again to make sure.

>

> Mario N. Alioto

> TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP

> 2280 Union Street

> San Francisco, CA 94123

> Telephone:415 447-1650

> Facsimile:415 346-0679

>

> This message is sent by a law firm and may contain information that is
> privileged or confidential. If you received this transmission in
> error, please notify the sender by e-mail and delete the message and
> any attachments.

>

> -----Original Message-----

> From: Francis Scarpulla [mailto:fos@scarpullalaw.com]

> Sent: Monday, December 12, 2016 7:00 PM

> To: Mario N. Alioto Esq.

> Cc: Patrick Clayton; Emilio Varanini

> Subject: CRT

>

> Mario: For many months I have been asking you to let us all know how
> many natural person consumers filed approved claims and you have
> refused to tell me. I would bet that the interested AGs might want to
> know as well. So, for about the tenth time, please let me know how
> many individual natural persons filed claims in this case and of those
> filed how many were approved. Thank you for your prompt response.

>

>

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **DECLARATION OF FRANCIS O. SCARPULLA IN SUPPORT OF ADMINISTRATIVE MOTION TO REQUIRE LEAD COUNSEL TO DISCLOSE THE NUMBER OF INDIRECT-PURCHASER CLAIMANTS** was filed *via* CM/ECF on December 28, 2016 and as a result has been served on all counsel of record *via* transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Francis O. Scarpulla

Francis O. Scarpulla